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BANNER & WITCOFF AND ATTORNEYS FOR ACCENTURE  
10 S. WACKER DRIVE, 30TH FLOOR  
CHICAGO, IL 60606

EXAMINER

STIMPAK, JOHNNA

ART UNIT PAPER NUMBER

3623

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/864,383

Applicant(s)

BYE, JONATHAN

Examiner

Johnna R. Stimpak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-98 and 100-220 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-98 and 100-220 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following is a final office action upon examination of application number 09/864,383. Claims 1-98 and 100-220 are pending and have been examined on the merits discussed below.

#### ***Response to Arguments***

2. Applicant's amendments to the claims are sufficient to overcome the prior rejections under 35 USC 101.

3. Applicant's arguments filed 8/25/05 have been fully considered but they are not persuasive. Applicant argues that the Egan reference only teaches tracking sales by and end user (who is a supplier), but does not teach anything about a user (who is supplied by a supplier) obtaining information about a supply chain. Examiner notes, however, that the section of Egan that was cited is merely an example of the overall method and system of Egan. The parts cited were used to show how one can view data hierarchically, regardless of where the data comes from. Since all the supplier data is available in Aycock, it would be beneficial to use the system of Egan to develop a hierarchical set of displays to view the data. Therefore, Examiner upholds the prior rejections to the claims and has reproduced them below for convenience.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1- 3, 5, 7-22, 24, 26-41, 43, 45-60, 62, 64-76, 93-97, 101-117, 119, 121-137, 139, 141-158, 160, 162-178, 180, 182-198, 200, 202-218 and 220** are rejected under 35 U.S.C. 103(a) as being anticipated by **Aycock et al, US 5,765,138 in view of Egan et al, US 5,657,460.**

As per **claim 1**, Aycock et al teaches a method of evaluating the supply base of a supply chain comprising the steps of: inputting data concerning at least one of multiple suppliers in said supply chain (column 3, lines 3-5); displaying performance indicators relating to the performance of said at least one supplier with regard to other entities in said supply chain (column 4, lines 2-6; column 9, lines 37-44 – the performance data is displayed); and producing an evaluation score for said at least one supplier based on said inputted data (column 3, lines 3-12). Although Aycock et al teaches producing an evaluation score for a supplier and accessing the databases of the supplier through an interface to view information on performance reports (column 4, lines 2-6), the reference does not explicitly teach determining a supply chain, inputting a hierarchical identification of a selected hierarchical level within an individual supplier, the individual supplier being one of the at least one multiple suppliers and displaying for at least one hierarchical level, the performance indicators. Egan et al teaches a using an interface to access and track sales, revenue and profit information for a supplier by indicating a region of a supplier to view the information. The user can develop a hierarchical set of displays for sales so an end user can view successively smaller sales regions in the supply chain (column 15, lines 19-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate hierarchical views of performance data, as taught by Egan et al, into the

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performance evaluation system of Aycock et al to produce a more encompassing view of the supplier for which the performance evaluation is taking place.

As per **claim 2**, Aycock et al teaches the performance indicators displayed in said displaying step comprise at least one of: returns, damaged returns, group sales, net sales, buying margin, achieved margin, lateness of order, and service level (column 3, lines 9-13 – the calculation performed refers to the serviceability of the vendor).

As per **claim 3**, Aycock et al teaches the evaluation score is based on deliveries, quality, documentation, culture, and communication (column 3, lines 9-13 – the calculation performed refers to distribution and quality).

As per **claim 5**, Aycock et al teaches the evaluation score is based upon deliveries, quality, documentation, culture, and communication (column 3, lines 9-13 – the calculation performed refers to distribution and quality).

As per **claim 7**, Aycock et al teaches the evaluation comprising the further step of comparing evaluation scores for multiple suppliers (column 10, lines 5-11).

As per **claim 8**, Aycock et al does not explicitly teach the comparison in tabular form, however Egan et al teaches the display of data in an Excel spreadsheet (fig. 8). It would have been obvious to one of ordinary skill in the art to display the performance data of Aycock et al in tabular form since displaying data for comparison in an organized manner such as a table or spreadsheet makes viewing and analyzing the data much quicker and easier for a user.

As per **claim 9**, Aycock et al does not explicitly teach the comparison in graphical form, however Egan et al teaches the display of data in a graph (fig. 16). It would have been obvious to one of ordinary skill in the art to display the performance data of Aycock et al in graphical

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form since displaying data for comparison in an organized manner such as a graph makes viewing and analyzing the data much quicker and easier for a user.

As per **claim 10**, Aycock et al teaches the evaluation comprising the further step of comparing performing indicators for multiple suppliers (column 10, lines 5-7).

As per **claim 11**, Aycock et al does not explicitly teach the comparison in tabular form, however Egan et al teaches the display of data in an Excel spreadsheet (fig. 8). It would have been obvious to one of ordinary skill in the art to display the performance data of Aycock et al in tabular form since displaying data for comparison in an organized manner such as a table or spreadsheet makes viewing and analyzing the data much quicker and easier for a user.

As per **claim 12**, Aycock et al does not explicitly teach the comparison in graphical form, however Egan et al teaches the display of data in a graph (fig. 16). It would have been obvious to one of ordinary skill in the art to display the performance data of Aycock et al in graphical form since displaying data for comparison in an organized manner such as a graph makes viewing and analyzing the data much quicker and easier for a user.

As per **claim 13**, Aycock et al teaches the evaluation score is a numeric representation of performance (column 7, lines 3-13).

As per **claim 14**, Aycock et al teaches the numeric representation is on a scale of 1 to 10 (column 7, lines 3-13 – the response schedule identifies 10 possible items, a point is awarded for each item identified in the response).

As per **claim 15**, the combination of Aycock et al and Egan et al does not explicitly teach representing the evaluation score using a scale of colors. Aycock et al teaches a competitive analysis (comparison) of suppliers to determine respective performance of the suppliers wherein

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there is inherently a ranking of the suppliers with respect to each other (column 10, lines 1-10).

It is old and well known to use features such as a scale of colors or other indices to indicate an entity with the highest rank. This makes viewing the data easier for the user since the highest ranking will stand out due to the use of color.

As per **claim 16**, Aycock et al teaches the step of providing for input of anecdotal information (Column 13, lines 5-12 – the supplier provides responses to questions which are generated in a word processing-based document).

As per **claim 17**, Aycock et al teaches the step of linking the evaluation score to a product type (column 9, line 59 – column 10, line 5).

As per **claim 18**, Aycock et al teaches a competitive analysis (comparison) of suppliers to determine respective performance of the suppliers wherein there is inherently a ranking of the suppliers with respect to each other (column 10, lines 1-10).

As per **claim 19**, Aycock et al teaches the step of restricting the inputting step to authorized personnel (column 10, lines 55-67 – upon receiving the proper access code, the supplier can input information).

As per **claims 20-22, 24, 26-38**, they recite the computer readable medium having the computer-executable instructions for the method of claims 1-3, 5, 7-19. Therefore the analysis as applied to claims 1-3, 5, 7-19 above is applied to claims 20-22, 24, 26-38 since both Aycock et al and Egan et al both perform evaluations using a computer system.

As per **claim 39-41, 43, 45-57**, they recite the computer readable medium having the computer-executable modules/components for the method of claims 1-3, 5, 7-19. Therefore the

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analysis as applied to claims 1-3, 5, 7-19 above is applied to claims 39-41, 43, 45-57 since both Aycock et al and Egan et al both perform evaluations using computer systems.

As per **claims 58-60, 62, 64-76**, they recite the system for performing the method of claims 1-19. Therefore the analysis as applied to claims 1-3, 5, 7-19 above is applied to claims 58-60, 62, 63-76 since both Aycock et al and Egan et al both use a computer system for performance evaluations.

As per **claim 93**, Aycock et al teaches receiving data concerning at least one of a plurality of suppliers (column 3, lines 3-5); and generating for at least one performance indicator for the supply chain, said at least one performance indicator relating to the at least one supplier with respect to at least one other supplier (column 4, lines 2-6; column 9, lines 37-44 – the performance data is displayed). Aycock et al does not explicitly teach determining a supply chain, receiving a request relating to at least one supplier of the supply chain, the request including hierarchical identification of a selected hierarchical level within an individual supplier, the individual supplier being one of said at least one supplier; and generating performance indicators for at least one selected hierarchical level. Egan et al teaches a using an interface to access and track sales, revenue and profit information for a supplier by indicating a region of a supplier to view the information. The user can develop a hierarchical set of displays for sales so an end user can view successively smaller sales regions in the supply chain (column 15, lines 19-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate hierarchical views of performance data, as taught by Egan et al, into the performance evaluation system of Aycock et al to produce a more encompassing view of the supplier for which the performance evaluation is taking place.



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As per **claim 94**, Aycock et al teaches producing an evaluation score for the at least one supplier (column 3, lines 3-12).

As per **claim 95**, Aycock et al teaches the performance indicators displayed in said displaying step comprise at least one of: returns, damaged returns, group sales, net sales, buying margin, achieved margin, lateness of order, and service level (column 3, lines 9-13 – the calculation performed refers to the serviceability of the vendor).

As per **claim 96**, Aycock et al teaches producing an evaluation score for the at least one supplier based on inputted data (column 3, lines 3-12).

As per **claim 97**, Aycock et al teaches the evaluation score is based on deliveries, quality, documentation, culture, and communication (column 3, lines 9-13 – the calculation performed refers to distribution and quality).

As per **claim 101**, Aycock et al teaches the evaluation comprising the further step of comparing performing indicators for multiple suppliers (column 10, lines 5-7).

As per **claim 102**, Aycock et al does not explicitly teach the comparison in tabular form, however Egan et al teaches the display of data in an Excel spreadsheet (fig. 8). It would have been obvious to one of ordinary skill in the art to display the performance data of Aycock et al in tabular form since displaying data for comparison in an organized manner such as a table or spreadsheet makes viewing and analyzing the data much quicker and easier for a user.

As per **claim 103**, Aycock et al does not explicitly teach the comparison in graphical form, however Egan et al teaches the display of data in a graph (fig. 16). It would have been obvious to one of ordinary skill in the art to display the performance data of Aycock et al in

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graphical form since displaying data for comparison in an organized manner such as a graph makes viewing and analyzing the data much quicker and easier for a user.

As per **claim 104**, Aycock et al teaches the evaluation comprising the further step of comparing performing indicators for multiple suppliers (column 10, lines 5-7).

As per **claim 105**, Aycock et al does not explicitly teach the comparison in tabular form, however Egan et al teaches the display of data in an Excel spreadsheet (fig. 8). It would have been obvious to one of ordinary skill in the art to display the performance data of Aycock et al in tabular form since displaying data for comparison in an organized manner such as a table or spreadsheet makes viewing and analyzing the data much quicker and easier for a user.

As per **claim 106**, Aycock et al does not explicitly teach the comparison in graphical form, however Egan et al teaches the display of data in a graph (fig. 16). It would have been obvious to one of ordinary skill in the art to display the performance data of Aycock et al in graphical form since displaying data for comparison in an organized manner such as a graph makes viewing and analyzing the data much quicker and easier for a user.

As per **claim 107**, Aycock et al teaches the evaluation score is a numeric representation of performance (column 7, lines 3-13).

As per **claim 108**, Aycock et al teaches the numeric representation is on a scale of 1 to 10 (column 7, lines 3-13 – the response schedule identifies 10 possible items, a point is awarded for each item identified in the response).

As per **claim 109**, the combination of Aycock et al and Egan et al does not explicitly teach representing the evaluation score using a scale of colors. Aycock et al teaches a competitive analysis (comparison) of suppliers to determine respective performance of the

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suppliers wherein there is inherently a ranking of the suppliers with respect to each other (column 10, lines 1-10). It is old and well known to use features such as a scale of colors or other indices to indicate an entity with the highest rank. This makes viewing the data easier for the user since the highest ranking will stand out due to the use of color.

As per **claim 110**, Aycock et al teaches the step of providing for input of anecdotal information (Column 13, lines 5-12 – the supplier provides responses to questions which are generated in a word processing-based document).

As per **claim 111**, Aycock et al teaches the step of linking the evaluation score to a product type (column 9, line 59 – column 10, line 5).

As per **claim 112**, Aycock et al teaches a competitive analysis (comparison) of suppliers to determine respective performance of the suppliers wherein there is inherently a ranking of the suppliers with respect to each other (column 10, lines 1-10).

As per **claims 113-117, 119, 121-132**, they are the computer readable medium having computer executable instructions for performing the method of claims 93-97 and 101-112; therefore the analysis as applied to claims 93-97 and 101-112 above is applied to claims 113-117, 119, 121-132 since both Aycock et al and Egan et al both perform evaluations using computer systems.

As per **claims 133-137, 139, 141-152**, they are the computer readable medium having computer executable modules/components for performing the method of claims 93-97 and 101-112; therefore the analysis as applied to claims 93-97 and 101-112 above is applied to claims 133-137, 139, 141-152.

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As per **claim 153**, the recited step of “logging into a system” constitutes the same limitation as addressed in claim 19 that recites providing “restricted access”. Furthermore, claim 19 depends from claim 1 which recites the steps that are equivalent to the steps recited in claim 153. Therefore the analysis as applied to claims 1 and 19 is applied to claim 153.

As per **claim 154**, Aycock teaches the performance information includes at least one of actual evaluations, supplier information, teams view evaluations and bulletin board data (column 10, lines 55-67 – once the system is accessed, one can access databases of the supplier evaluation system to receive information on performance reports or product updates).

**Claims 155- 158, 160, 162-173** receive the same analysis as applied to claims 94-97 and 101-112 above.

As per **claim 174**, it is the computer readable medium having computer-executable instructions for performing the steps of claim 153. Therefore the analysis as applied to claim 153 is applied to claim 174.

**Claims 175- 178, 180, 182-193** receive the same analysis as applied to claims 155- 158, 160, 162-173 above.

As per **claim 194**, it is the computer readable medium having computer executable modules/components for performing claim 153. Therefore the analysis as applied to claim 153 above is applied to claim 194.

**Claims 195-198, 200, 202-213** receive the same analysis as applied to claims 155- 158, 160, 162-173 above.

As per **claim 214**, Aycock et al teaches determining a criterion to gauge the performance indicators (column 6, lines 37-54 – performance is given a specific level or numeric representation based on certain criterion).

As per **claim 215**, Aycock et al teaches selecting the supply chain from a plurality of supply chains (column 9, lines 37-58 – the selection of the supplier is made from a plurality of suppliers in the database).

As per **claim 216**, Aycock et al teaches displaying the performance indicators are presented by a level (column 6, lines 37-54 – performance is given a specific level or numeric representation based on certain criterion).

As per **claim 217**, the combination of Aycock et al and Egan et al does not explicitly teach hierarchical levels wherein one is selected from a department level, a division level, and a company level. The combination of Aycock et al and Egan et al teach hierarchical levels wherein one is selected from region, county and city to represent sales data, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the hierarchical levels taught in the combination of Aycock et al and Egan et al based on the information requested by the user.

As per **claim 218**, Aycock teaches comparing vendor performance wherein it is inherent that vendors would be in the same level of the supply chain, but does not explicitly teach comparing performance of at least one supplier at a first hierarchical level with another supplier at another hierarchical level. Egan et al teaches viewing sales data within a hierarchy to track performance. It would have been obvious to one of ordinary skill in the art to compare performance across hierarchical levels to gain a more insightful view of the organization to

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determine which level of the organization is in need of improvement thereby resulting in a more efficient organization. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a hierarchical view of the performance of the suppliers in the supply chain organization to allow for more in depth knowledge as to where performance is lacking within the suppliers.

As per **claim 220**, Aycock does not explicitly teach a divisional level and a department level. Egan et al teaches viewing sales data within a hierarchy to track performance. It would have been obvious to one of ordinary skill in the art to compare performance across hierarchical levels to gain a more insightful view of the organization to determine which level of the organization is in need of improvement thereby resulting in a more efficient organization. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a hierarchical view of the performance of the suppliers in the supply chain organization to allow for more in depth knowledge as to where performance is lacking within the suppliers.

6. **Claims 77-92** are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Aycock et al, US 5,765,138 and Egan et al, US 5,657,460 in view of James et al.

As per **claims 77, 81, 85 and 89**, the combination of Aycock et al. and Egan et al teaches all the limitations of these claims as applied to claims 1, 20, 39 and 58 above. The combination does not teach providing a bulletin board so users can communicate to assess and evaluate the supply base. Examiner takes Official Notice that it is notoriously old and well known in the art to use electronic bulletin board systems (BBS) to share common information among a group of

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users. For instance, USENET newsgroups have been used for over a decade to provide a common forum to post important messages between the users to share a particular topic.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include an electronic bulletin board in Aycock since Aycock already teaches sharing information over a computer network and BBS, as it is notoriously well known in the art at the time the invention was made, provides for a simple, mass information dissemination format so users can read and provide immediate feedback on the issue at hand.

As per **claims 78, 79, 80, 82, 83, 84, 86, 87, 88, 90, 91 and 92**, these are inherent administrative procedures for an electronic bulletin board system. See, for example, James et al reference ("An Exploratory Study of the Perceived Benefits of Electronic Bulletin Board Use and Their Impact on Other Communication Activities") cited herewith.

**7. Claims 4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199, 201, 219** are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Aycock et al, US 5,765,138 and Egan et al, US 5,657,460.

As per **claims 4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199 and 201**, the combination of Aycock et al and Egan et al does not specifically teach the evaluation score based on pre-season and in-season performance, however, official notice is taken that it is well known in the art of supply chain management that the evaluation of a supplier would take into account pre-season and in-season performance. In any supply chain where products are being manufactured or sold, seasons play a big role. For example, in the production of bathing suits, there would be a greater demand in the months leading to summer,

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therefore, the motivation to include seasonal performance is that it is important to see how well the suppliers in the supply chain can react to fluctuations in demand.

As per **claim 219**, the combination of Aycock et al and Egan et al does not explicitly teach trending the performance indicator over a period of time for at least one multiple supplier. However it is old and well known in the art of data manipulation to collect data, evaluate it, and then plot the results to determine any trends. It would have been obvious to modify the combination of Aycock et al and Egan et al to incorporate a trend of the data to see how each supplier performs over time to determine if there is consistency to make a more informed choice when selecting a supplier.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Stimpak whose telephone number is 571-272-6736.

The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS  
11/12/05



TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600